

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 1-31-03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits, myofascial release, joint mobilization, electrical stimulation, therapeutic activities, and therapeutic exercises from 2-1-02 through 2-28-02 **were found** to be medically necessary. The remaining office visits, myofascial release, joint mobilization, electrical stimulation, therapeutic activities, and therapeutic exercises **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The requester has withdrawn all services which were under dispute for medical fee issues. This includes date of service 1-31-02, CPT code 97250 for date of service 2-5-02, CPT code 97032 for date of service 2-13-02, CPT code 97265 for date of service 2-19-02, CPT code 99080 for date of service 8-1-02 and date of service 10-8-02.

This Finding and Decision is hereby issued this 17th day of September 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 2-1-02 through 2-28-02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 17th day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

August 6, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

Patient:
TWCC #:
MDR Tracking #: M5-04-3360-01
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

____ suffered a work-related injury on _____. She was lifting boxes weighing approximately 35-40 pounds and stacking them on a pallet when she felt a "pop". The pain was in the

posterior portion of the shoulder and radiated to her anterior shoulder and neck. She also had pain radiating to her left arm.

For all practical purposes, no actual treatment records were supplied since the daily progress notes were computer generated, essentially verbatim from day to day and practically super-imposable upon each other. In fact, the daily notes do not even make mention of the injections that were being performed concurrently.

DISPUTED SERVICES

Under dispute is the medical necessity of CPT codes 99213 (office visits), 97250 (myofascial release), 97265 (joint mobilization), 97032 (electrical stimulation), 97530 (therapeutic activities) and 97110 (therapeutic exercises) from 02/01/02 through 08/09/02.

DECISION

The reviewer disagrees with the prior adverse determination regarding all treatments from 02/01/02 through 02/28/02.

The reviewer agrees with the prior adverse determination regarding all treatments after 02/28/02.

BASIS FOR THE DECISION

Solely on the basis of the patient's history, passive and active care would be indicated for a period of 6 weeks. Since, according to the treating doctor, the patient had previously received 2-3 weeks of treatment, an additional 4 weeks of treatment in February 2002 is approved. However, there is no documentation to support any treatment after 02/28/02.

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (D) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (E) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment. In this case, those expectations were not met.

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, there is no documentation of objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment after 02/28/02. In fact, the patient's shoulder pain rating decreased from 9 to 5 during the month of February 2002 but remained at 5 when the treatment in question ended on 08/09/02. Lack of response to care was also documented by the fact that shoulder ranges of motion did not improve from the time of the first FCE on 05/07/02 to the final FCE that was performed on 10/08/02. The continued treatment after 02/28/02 was therefore medically unnecessary since the patient obtained no additional relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to employment.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,